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PATENT

REMARKS

Claims 1-21, all the pending claims, are subject to a restriction requirement.

The Examiner required Applicants to elect one of the following patentably distinct inventions for examination:

Invention I, encompassing claims 1-3, 8, and 10-15, "drawn to a method for enhancing cytotoxicity with a competitive inhibitor; classified in Class 424, subclass 130.1";

Invention II, encompassing claims 1-2, 4, and 10-15, "drawn to a method for enhancing cytotoxicity with an antibody; classified in Class 424, subclass 133.11";

Invention III, encompassing claims 1-2, 5-6, and 10-15, "drawn to a method for enhancing cytotoxicity wherein expression is disrupted by antisense nucleic acid; classified in Class 514, subclass 44";

Invention IV, encompassing claims 1-2, 5, 7, and 10-15, "drawn to a method for enhancing cytotoxicity wherein expression is disrupted by an antibody; classified in Class 424, subclass 184.1";

Invention V, encompassing claims 1-2, 9, and 10-15, "drawn to a method for enhancing cytotoxicity wherein SHIP expression is inhibited; classified in class 424, subclass 130.1"; and

Invention VI, encompassing claims 16-21, "drawn to a method for enhancing cytotoxicity wherein SHIP expression is inhibited; classified in Class 5304, subclass 387.3".

(Office Action at page 2).

The Office Action alleges that each of the inventions is distinct because, *inter alia*, "they represent different inventive endeavors as one does not suggest the other; therefore, each method is patentably distinct." (Office Action at page 3). Applicant disagrees and respectfully traverses the restriction requirement.

The Office Action further requires the election of a single disclosed species selected from the patentably distinct species of the claimed invention.

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Applicant provisionally elects herein Group II encompassing 1-2, 4, and 10-15, "drawn to a method for enhancing cytotoxicity with an antibody". Applicant provisionally elects "Her2/neu growth factor" from the list of antigens set forth by the Examiner. Claims 1-2, 4, and 10-15 read on "Her2/neu growth factor".

Notwithstanding the foregoing, Applicant respectfully submits that the groups of claims set forth by the Examiner are amenable to further grouping and that such further grouping would not impose a serious burden on the Examiner. It is well settled that for an application to be properly required to be restricted, there must be a serious burden on the Examiner (*see*, MPEP§803). Indeed, the MPEP states that if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. In view of this position taken by the PTO, Applicant respectfully submits that it would cause no serious burden to the Examiner to search more than one of the Groups identified by the Examiner. Applicant notes that Groups I, II, IV, and V are all classified in Class 424. Moreover, Groups I and V are each classified in Class 424, subclass 130.1. Applicant respectfully proposes that Groups I, II, IV, and V be examined together as such further grouping would not impose a serious burden on the Examiner.

The examination of these claims and passage to allowance are respectfully requested. An early Notice of Allowance is therefore earnestly solicited. Applicant invites the Examiner to contact the undersigned at (215) 564-8338 to clarify any unresolved issues raised by this response.

Respectfully submitted,



Gwilym John Owen Attwell
Registration No. 45,449

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WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103
(215) 568-3100